COURT'S ORDER WHETHER THE CASE IS OR IS NOT APPROVED FOR REPRTING

[Chapter VIII, Rule 32 (2) (b)]

Description of Case.

Writ Petition No.3189 of 2001

(Old CMWP No.8764/1981)

Smt. Harnam Kaur

Vs.

Additional District Magistrate (Supply) Prescribed Authority, Rent Control, Nainital and others

A.F.R. (Approved for Reporting)
Not Approved for Reporting

(B.S. Verma, J.)

Initial of Judge

Date: 13-9-2006

THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 3189 of 2001.
(Old CMWP No. 8764 of 1981)

Smt. Harnam Kaur, wife of Shri H.S.Sethi, resident of Sethi Niwas, Tallital, Nainital.

... **Petitioner**

Vs.

1. Additional District Magistrate (Supply) Prescribed Authority, Rent Control, Nainital.
2. Superintending Engineer, XIII Circle, Jal Nigam, Nainital.
3. Jal Nigam through its Chairman, 6, Rana Pratap Marg, Lucknow.

.... **Respondents.**

Sri B.C.Pande, Senior Advocate assisted by Sri Naresh Pant, learned counsel for the petitioner.
Smt. Seema Sirohi Brief Holder for the State-respondent.
Sri D.S.Patni, for the respondent nos. 2 & 3.

Date September 13, 2006

P.C.: Hon'ble B.S.Verma, J.

The petitioner has filed the present writ petition with a prayer to quash the impugned order dated 8-7-1981 passed by the Rent Control & Eviction Officer Nainital (for short R.C. & E.O.) as contained in Annexure-A to the writ petition, whereby the R.C. & E.O. regularized the tenancy of the respondent no.2.

The respondent no.2 moved an application on 15-4-1981 purporting to be under Section 14 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act 1972 with a prayer to regularize the tenancy of the tenant on the ground that the respondent no.2 has been a tenant of the petitioner since the year 1972 at a monthly rental of Rs. 700/- in respect of office and Rs. 150/- in respect of residence of the respondent no.2. Being aggrieved by the notice of the landlady, the application was filed. The application was contested by the landlady on the ground that there is no provision under section 14 of the said Act to regularize the tenancy. The learned R.C. & E.O.

did not find favour with the contention of the landlady and passed the order impugned.

I have heard rival contentions of the learned counsel for both the parties and perused the material on record.

At the outset it may be mentioned that under the provisions of the Act, the authorities, Rent Control and Eviction Officer as well as the Prescribed Authority are authorized to deal with certain matters with limited jurisdictions and they are not the Courts of General jurisdiction.

The learned counsel for the petitioner has submitted that the application that the applicant be declared as tenant under Section 14 of the Act is misconceived because Section 14 of the Act nowhere confers such a power of declaration upon the R.C. & E.O. In support of his contention, the learned counsel for the petitioner has placed reliance upon the judgment of the Division Bench of the Allahabad High Court (Lucknow Bench) in the case of ***Mirza Samiullah Baig Vs. District Magistrate, Lucknow and others,[1984(2) Allahabad Rent Cases, Page 322]*** wherein it was held that ***"Section 14 of the Act does not confer jurisdiction either on the District Magistrate or even the Prescribed Authority to entertain proceeding for the purpose of merely of making a declaration under that section. It declares the legal position, of which any person may claim benefit in appropriate proceedings by way of defence or otherwise."*** In paragraph no. 6, it was inter alia observed that ***"Section 14, however, is a purely declaratory provisions, which states the legal position if certain factual situations are made out. It or any other provisions of this Act does not confer power or jurisdiction on the District Magistrate or even the Prescribed Authority to entertain any proceeding with a view to making a declaration contemplated by Section 14. The District Magistrate or any other officer authorized by him as well as the Prescribed Authority constituted under this Act are all authorities with limited jurisdictions only in respect of the matters for which***

express provisions has been made in the Act. They are not Courts of General jurisdiction so as to entitle them to entertain proceedings for which no power or jurisdiction has been conferred on them. Section 14 is a provision under which no provision has been made to empower either the District Magistrate or the Prescribed Authority to entertain proceedings only to make a declaration."

I am in full agreement with the view taken by Their Lordships in that case and the controversy in the reported case as well as the case at hand is the same and the present case is squarely covered by the verdict of *Mirza Samiullah Baig case (supra).* In the case at hand, the R.C. & E.O. has made a declaration under Section 14 of the Act in excess of the jurisdiction vested in him and the order dated 8-7-1981 is not sustainable in the eye of law.

For the reasons aforesaid, the writ petition deserves to be allowed and the order impugned is liable to be set aside outright.

The writ petition is hereby allowed. The order dated 8-7-1981 of the Rent Control and Eviction Officer Nainital is set aside. No order as to costs.

However, the respondents may claim benefit in appropriate proceedings, if any, by way of defence.

(B.S. Verma,J.)

RCP